

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA

Plaintiff

v.

CRIMINAL NO. 98-231 (SEC)

RUBEN MONROIG ALMODOVAR [1]

Defendant

REPORT AND RECOMMENDATION

Upon consideration of defendant's *Motion Requesting Some Disposition* (Docket No. 162), as well as entertaining the parties' arguments, the Court understands that the restitution at issue is non-mandatory. Accordingly, the Court may modify the same, if warranted, so as to achieve the end of justice.

In the present case, the value of the vessel is \$71,000.00, as per the appraisal of Mr. Paul Simpson, Marine Surveyor. The restitution ordered in the defendant's judgment adopted said sum.

At present, the vessel has depreciated \$18,000.00. The Court understands that each party should bear half of said amount (\$9,000 each) as neither party took any affirmative steps to liquidate the vessel towards the satisfaction of the restitution .

Defendant has agreed to pay \$30,000.00 in monthly payments (which include his depreciation percentage). He has also agreed to sell the vessel for whatever good faith amount is offered within the next sixty (60) days.

The Court understands that defendant's good faith efforts to comply with the judgment and sell the boat, warrant that restitution be modified accordingly as follows:

Wherefore, the Court hereby RECOMMENDS that defendant:

- 1) Pay \$30,000.00 in restitution, in a payment plan agreed to with the Government.
See 18 U.S.C. § 3613 (b)(f).
- 2) Promptly sell the vessel in good faith within sixty (60) days, and deposit said sum with the Clerk of Court. Said money shall be then accredited to the Government, in addition to the \$30,000.00.

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3 3) The above amounts will further both the Government's interest in collecting
4 restitution, and the defendant's good faith efforts to comply with the same.

5 Under the provisions of Rule 72(d), Local Rules, District of Puerto Rico, any party who
6 objects to this report and recommendation must file a written objection thereto with the Clerk of the
7 Court within ten (10) days of the party's receipt of this report and recommendation. The written
8 objections must specifically identify the portion of the recommendation, or report to which objection
9 is made and the basis for such objections. Failure to comply with this rule precludes further
10 appellate review. See Thomas v. Arn, 474 U.S. 140, 155 (1985), reh'g denied, 474 U.S. 1111(1986);
11 Davet v. Maccorone, 973 F.2d 22, 30-31 (1st Cir. 1992).

12 **SO RECOMMENDED.**

13 In San Juan, Puerto Rico, this 25th day of October, 2005.

14 */s/ Gustavo A. Gelpi*

15 **GUSTAVO A. GELPI**
16 United States Magistrate-Judge
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